

HOUSE BILL REPORT

HB 1375

As Reported By House Committee On:
Judiciary

Title: An act relating to liability for furnishing liquor to minors.

Brief Description: Imposing liability for furnishing liquor to minors.

Sponsors: Representatives Brough, Appelwick, Padden, Heavey, Ballard, Ludwig, Vance, Forner, Wineberry, Jones, Roland, Horn, Casada, Sheahan, Long, Foreman, Rayburn, Brumsickle, Van Luven, Springer, Wood, Johanson, Miller, Schoesler, Reams and Silver.

Brief History:

Reported by House Committee on:
Judiciary, February 16, 1993, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: An individual who furnishes intoxicating liquor to a minor may be charged under Washington law with a misdemeanor. However, such a person is generally not liable in a civil lawsuit for any injury to third persons or damage to property resulting from the minor's consumption. This same rule against liability applies to cases in which adults are furnished alcohol. Washington statutes do not authorize civil lawsuits in these areas, and Washington courts have generally rejected suits based on the common-law theory of negligence. Under the common law, the courts have reasoned that the injuries are not caused by the person who furnishes the liquor but by the independent act of the person who drinks it.

In a recent case, Hansen v. Friend, 118 Wn.2d 476 (1992), the state Supreme Court did allow recovery for the wrongful death of a minor who died after being supplied alcohol by an adult. Language in the opinion, however, suggests the court may reject extension of the right of recovery to third parties who might be injured by a minor who has been given alcohol.

Other common law exceptions to the general rule of nonliability include situations where someone furnishes liquor to an obviously intoxicated person, to a person in a state of helplessness, or to a person in a special relationship to the furnisher. To date, these exceptions have not been extended to impose liability on a person who supplies liquor to another in a purely social setting.

In an action based on negligence, the fact that a defendant violated a law of conduct can be used to help a plaintiff prove the defendant acted negligently. The Washington Tort Reform Act of 1986, expressly provides that violation of a statute may not be considered negligence per se, but may be used only as one factor in determining negligence.

Summary of Substitute Bill: When an adult over the age of 18 years furnishes liquor to a minor under the age of 21 years in a commercial, social, or other setting, a civil cause of action is created whereby the adult may be held liable for the economic damages resulting from the minor's consumption.

Economic damages are defined as objectively verifiable monetary losses such as medical expenses or costs of property repair.

The creation of this right of action does not prohibit any person from pursuing an alternative cause of action based on other statutes, ordinances, regulations, or the common law.

Substitute Bill Compared to Original Bill: The substitute makes two technical corrections regarding cross-references to existing laws. It also removes a provision that would have made a violation of the criminal law on furnishing liquor to a minor negligence per se for purposes of a civil suit.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Adults should be held responsible for the consequences of furnishing alcohol to minors.

Testimony Against: People should be responsible for their own acts. The liquor industry is providing training to prevent serving minors.

Witnesses: Dennis Martin, Washington State Trial Lawyers Association (pro); Jan Gee, Washington Retail Association (con); and T.K. Bentler, United Food and Commercial Employees Union (con).